

Serial No. 10/083,656 filed February 25, 2002
Amendment dated April 12, 2007

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Information Disclosure Statement

Attached hereto is a sheet of Form PTO/SB/08B listing a document for consideration in connection with the above-captioned application. A copy of the reference is enclosed.

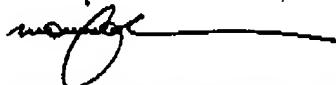
As previously brought to the Patent Office's attention, the present application is related to U.S. Patent No. 6,321,931, and U.S. Patent No. 6,357,620 (which is a continuation-in-part of the '931 patent), both of which were asserted in litigation against parties accused of infringement. The Federal Circuit has recently issued a decision in that litigation. A copy of the decision is enclosed for the Patent Office's reference.

It is believed that this disclosure, pursuant to 37 C.F.R. §§ 1.97 and 1.98, complies with the requirements of 37 C.F.R. § 1.56 and the Manual of Patent Examining Procedure. *See e.g.*, MPEP §707.05(b). If for some reason the Patent Office considers otherwise, it is respectfully requested that the undersigned be contacted at the telephone number listed below so that any deficiencies can be immediately remedied.

Authorization is hereby provided to debit any and all amounts required in connection with this submission from Deposit Account No. 50-1604.

Dated: April 12, 2007

Respectfully submitted,



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Remarks

The present transmittal is being submitted: (a) to summarize an Examiner Interview dated February 22, 2007 and follow up with respect to that interview; (b) to present an Information Disclosure Statement for the Examiner's review; (c) to amend the pending claims; and (d) to amend the specification. The Commissioner is authorized to charge all fees due to Account 50-1604.

Interview Summary

On February 22, 2007, counsel had a telephonic interview with the Examiner in which the pending claims and art were discussed. In the interview, both the Examiner and undersigned counsel were in agreement that none of the references of record (whether IT '286 or EP '828 or any other reference) teach or suggest a valve with a post and an opening in a flexible membrane, wherein the membrane inverts upon application of negative pressure. It was also agreed that the references do not teach or suggest a no-spill drinking apparatus having a flexible member that hits an anti-inversion member or subunit (or "flow bridge") upon application of negative pressure.

It is noted that counsel realized during the discussion in the interview that the exact language of the claims is to a post that extends 'into' an opening. ('Into' is slightly broader than 'through', since 'into' requires that the post go in one end of the opening, while 'through' requires that the post go in one end and out at the other). Counsel brought this to the Examiner's attention during the interview. Upon further consideration, the broader term ('into') is being left in claims 1 and 28 and the narrower term ('through') is being inserted into claim 48.

Information Disclosure Statement

The day after the interview, on February 23, 2007, a decision was issued in Applicant's appeal to the Federal Circuit in connection with litigation in related U.S. Patent No. 6,321,931 and U.S. Patent No. 6,357,620, in favor of the defendants. The Federal Circuit's decision is referenced in and attached to the enclosed Information Disclosure Statement (IDS). Counsel for applicant has since submitted a petition for rehearing in that appeal, which petition is currently pending.

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Amendments to Claims and Specification

In the interim, to facilitate allowance of the present application, claim 1 has been amended herein to recite that the flexible material inverts upon application of negative pressure (in place of the prior 'begins to invert' language); and to recite the presence of an air vent; and to correct a typographical error ('in' an open position) in the claim.

Some additional amendments have also been made to claims 28 and 48, as set forth in the above listing of claims.

For example, the language in claims 28 and 48 has also been amended from "valve subunit" to "subunit" with respect to the member that the flexible material hits upon application of negative pressure (see e.g., '620 patent col. 10 lines 27-32) to improve the language of the claim. As discussed in the interview, it is submitted that this feature is not taught or suggested in the art.

In addition, some narrowing amendments have been made to claim 48. In particular, claim 48 has been amended to recite an air valve in place of the prior language to an air vent. Claim 28 (requiring an air vent) is therefore broader in this respect than narrower claim 48 (requiring an air valve). "Air vent" is broader than "air valve" since an air vent includes an opening for air flow whether or not the opening is part of a valve.

Claim 48 has also been amended to more narrowly recite that the subunit which the flexible material hits is a shield (which limitation is also set forth in various of the new dependent claims¹).

Independent claim 28 has also been amended to broaden it by removing the valve holder limitation therefrom. Independent claims 28 and 48 have also been amended to broaden them by removing the cup limitation previously therein² (which is now only in dependent claims). Those removed limitations are not believed to be necessary for allowance of those claims.

¹ New dependent claims 69-71 recite this embodiment of a shield. The use of a shield is discussed in the specification at page 17. See e.g., '620 patent col. 8 lines 47-49; see also, specification p. 21, '620 patent col. 10 lines 24-26. Dependent claim 71 recites the shield and further recites that the flexible material also inverts upon application of negative pressure.

² Thus, the amended claims cover a no-spill apparatus whether or not attached to the drinking vessel which holds the fluid.

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New dependent claims 72-86 have also been added to recite additional limitations on claim 1 or dependent claims thereof, and are similar to the prior dependent claims on claims 28 and 48.

Likewise, other changes have been made to improve the claims are set forth in the listing of claims above.

It is submitted that all of the claims are patentable, both in view of the cited art and the decision from the Federal Circuit. The pending claims are distinct from those in the parent '620 patent; for example, among other differences, none of the claims of the '620 patent recite the air vents or air valves recited in the pending claims above. It is submitted that all of the pending claims are in allowable form.

It is requested that all of the claims be interpreted on the basis of the language set forth in them and the broadest reasonable interpretation thereof in view of the specification. Based thereon, it is requested that all of the claims be fully considered at the present time in view of all of the references of record and the Court's decision. No limitations or prosecution disclaimers on the language of the claims should be imported into any claim from earlier prosecution or prior versions of the claims or prior patents; and it will be assumed that no such importing is being conducted unless a statement is made by the PTO that it is doing so.

For example, it is noted that in the independent claims: any opening can be used, and in particular, the opening does not have to be a slit but can be any hole; any form or shaped post can be used; any combination of post and opening can be used; the post itself need not extend tightly through the opening at any time; and so forth. It is submitted that all of the claims are currently in fully allowable form as the language stands in the claims themselves, without any further limitations or disclaimers thereon.

Furthermore, for claim construction purposes at present and in the future, so that the definition is set forth in the record, Applicant would like to again confirm that negative pressure is a decrease in pressure, resulting in a pressure below ambient atmospheric pressure.

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Likewise, also for claim construction purposes, the term to "invert" means "to reverse in position". (It was our understanding during the interview that both counsel and the Examiner were using this same interpretation for the claims). As an example, an inside surface moves to become an outside surface and an outside surface moves to become an inside surface. Likewise, a membrane which moves from concave to convex or vice versa fulfills the requirement that it invert.

These constructions of "negative pressure" and "invert" are the ones that should be applied to the claims.

Lastly, the specification has been amended with a new paragraph. The paragraph adds text corresponding to structure shown in the drawings and recited in dependent claims 46, 47, 64, 65, 85 and 86. As stated in the paragraph, the flexible material of the valve is preferably bowl shaped, with original Figures 8(d) and 8(e) showing that bowl-shaped flexible material before and after inversion. This was shown in the figures as originally filed. Accordingly, no new matter has been added. *See e.g.*, M.P.E.P. §2163.006 (information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter).

In view of the above, favorable action on the application and allowance of all of the claims is respectfully requested.

Dated: April 12, 2007

Respectfully submitted,



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